

AB 78 (Pavley)
Pharmacy Benefits Managers (PBMs)
Increased Financial Disclosure to Employers

Amendments taken on 4-5-05 to alleviate opposition concerns:

- ***Removed “prospective purchaser” language.***
- ***Removed pharmacy and therapeutics committee language.***
- ***Removed drug substitution and patient/physician notification language.***
- ***Removed additional contract requirement language.***

BACKGROUND:

- Pharmacy Benefits Managers (PBMs) are the middlemen that negotiate on behalf of their clients (CalPERS, employers, insurers, and unions) for Rx discounts from drug manufacturers.
- PBMs manage drug benefits for 200 million American consumers and are behind the cards most people hand to a druggist when they fill a prescription.
- Three PBMs, Medco, Caremark and Express Scripts, control over 80% of the national market.

SUMMARY OF THE PROBLEM:

- Since the late 1990s, PBMs have been investigated and sued by state governments, consumer and labor groups, the Federal Trade Commission and the U.S. Justice Department.
- These lawsuits have been caused by the refusal of PBMs to disclose the financial arrangements they have with pharmaceutical manufacturers and the practice of “drug switching” whereby PBMs steer customers towards more expensive drugs promoted by drug manufacturers to increase profits rather than improve patient health.
- In April 2004, the nations largest PBM, Medco, settled in federal court for \$29 million with 20 state attorneys generals, including California Attorney General Bill Lockyer, because of drug switching tactics and their relationships with drug companies.

WHAT THE BILL DOES:

- Helps employers negotiate for less expensive benefits contracts by increasing the amount of pricing disclosure they receive from their PBM.
- Discloses conflict of interest relationships between consultants, PBMs and pharmaceutical companies.

CalPERS’ (the State Government’s largest PBM customer) drug costs have increased 42% between 1998 and 2002. If CalPERS achieves the estimated 8% savings level that other states have achieved as a result of implementing this type of legislation, their drug costs would decrease by about \$18 million annually.

The Governor is proposing to have a PBM manage his prescription drug reform plan, the California State Pharmacy Assistance Program. This bill would provide the state with the disclosure necessary to ensure that the PBM is spending taxpayer dollars wisely while preventing drug switching and conflicts of interest with pharmaceutical companies.